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**From:** Hall, Lynda  
**To:** Psyk, Christine; Joelle Gore  
**Sent:** 9/5/2014 8:32:47 AM  
**Subject:** RE: Jeff Dillen's comment on the draft OSDS rationale (OR CZARA)

That makes sense to me. We owe the state an acknowledgment of their efforts and it could modulate somewhat the very negative impact of the overall decision.

So including OSDS and new development means we will have to figure out how to position Ag.

Thanks for offering to write up our proposed approach, Joelle.

Sent from my Windows Phone

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**From:** Psyk, Christine  
**Sent:** 9/4/2014 7:28 PM  
**To:** Hall, Lynda; Joelle Gore  
**Subject:** RE: Jeff Dillen's comment on the draft OSDS rationale (OR CZARA)

I'm concerned about staying entirely silent on these matters. I don't think we can do that. The State will want to know what we've concluded about New Development and OSDS and we should say that we are ready to approve even if those approvals are interim because we are not in a position to approve the entire CZARA package because of forestry. I would us to make that statement publically even if that means we put that in some preamble section of the decision. I think the State will appreciate that. Regarding AG, we need to let them know what the plan is to reach a conclusion if we can't reach one by January 30<sup>th</sup>.

I don't think it's tenable to stay silent these elements.

Christine Psyk

**From:** Hall, Lynda  
**Sent:** Thursday, September 04, 2014 3:48 PM  
**To:** Psyk, Christine; Joelle Gore  
**Subject:** FW: Jeff Dillen's comment on the draft OSDS rationale (OR CZARA)

## Ex. 5 - Attorney Client

One question on this approach is whether, purely from a communications angle, it will do justice to the state's efforts on OSDS and new development.

Sent from my Windows Phone

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**From:** Sweeney, Stephen  
**Sent:** 9/4/2014 4:00 PM  
**To:** Carlin, Jayne; Waye, Don; allison.castellan@noaa.gov  
**Cc:** 'jeff.dillen@noaa.gov'; Byrne, Jennifer; Henning, Alan; Goo, Robert; Hall, Lynda; Psyk, Christine; Joelle Gore - NOAA Federal  
**Subject:** RE: Jeff Dillen's comment on the draft OSDS rationale (OR CZARA)

## Ex. 5 - Attorney Client

# Ex. 5 - Attorney Client

**From:** Carlin, Jayne

**Sent:** Thursday, September 04, 2014 11:36 AM

**To:** Waye, Don; [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov)

**Cc:** 'jeff.dillen@noaa.gov'; Sweeney, Stephen; Byrne, Jennifer; Henning, Alan; Goo, Robert; Hall, Lynda; Psyk, Christine; Joelle Gore - NOAA Federal

**Subject:** RE: Jeff Dillen's comment on the draft OSDS rationale (OR CZARA)

Don,

I agree. I imagined our decision document would focus on the disapproval; therefore, we only would include the forestry rationale as our basis for our disapproval. In separate correspondence with the state, we would include our current thinking on the rest of the conditions, including our current rationales on OSDS and New Development (and possibly Ag). We can decide whether to keep silent on our proposed finding for OSDS and just provide the updated rationale or whether to note that Oregon satisfied the condition (knowing that we can change our position or the rationale if new information becomes available before we make a final decision on the program). Would be good to include this part of the discussion at the managers meeting.

Jayne

Jayne Carlin, Watersheds Unit  
US EPA, Region 10  
1200 6th Ave, Suite 900 (QWW-134)  
Seattle, WA 98101-3140  
(206) 553-8512, (206) 553-0165 (fax)  
[carlin.jayne@epa.gov](mailto:carlin.jayne@epa.gov)

<http://www.epa.gov/r10earth/tmdl.htm>

**From:** Waye, Don

**Sent:** Thursday, September 04, 2014 8:10 AM

**To:** [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov)

**Cc:** 'jeff.dillen@noaa.gov'; Sweeney, Stephen; Byrne, Jennifer; Carlin, Jayne; Henning, Alan; Goo, Robert; Hall, Lynda; Psyk, Christine; Joelle Gore - NOAA Federal

**Subject:** Jeff Dillen's comment on the draft OSDS rationale (OR CZARA)

Allison, others,

With regard to the highlighted sentence below...

Yes. Jeff found my one big typo—or more specifically—I just forgot to update that one important decision statement after crafting an entire rationale around it. So, here's the edit that should have been made:

**PROPOSED FINDING:** Oregon has ~~not yet~~ satisfied this condition.

I was thinking that we would not mention OSDS or New Development at all in the January 2015 Decision Document, and just include the OSDS & New Dvpt. interim decisions and rationales in separate correspondence to the State (and with a copy to NWEA). But I am not opposed to including some short statements about OSDS and New Dvpt in the public decision document next January. I guess this is a question for our management.

Don Waye

U.S. EPA - Nonpoint Source Control Branch  
Phone: 202-566-1170

**From:** Allison Castellan - NOAA Federal [mailto:allison.castellan@noaa.gov]

**Sent:** Tuesday, September 02, 2014 5:08 PM

**To:** Waye, Don

**Cc:** Carlin, Jayne; Henning, Alan; Wu, Jennifer

**Subject:** Re:

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

Don--

I think your options look good. For #3 and #4, by "accept" do you envision an "interim approval" or would this be handled somewhat differently, such as it't not a basis for disapproval and here's why....? If interim approval, I think this would need to be handled outside of the Jan. disapproval decision doc.

# Ex. 5 - Deliberative

On Tue, Sep 2, 2014 at 3:32 PM, Waye, Don <Waye.Don@epa.gov> wrote:  
Alan and Program Team,

I have attached an updated version of what I sent out earlier today for your consideration. I have also attached the state AG's letter from 2004. Option 3 follows what Alan suggested during our call today. The old Option 3 is now Option 4. If we have used the Option 3 logic for other MMs, that would be useful information to add to this write-up. Please send me any comments by noon EDT tomorrow. Thanks.

Don Waye  
U.S. EPA - Nonpoint Source Control Branch  
Phone: 202-566-1170

**From:** Waye, Don

**Sent:** Tuesday, September 02, 2014 1:10 PM

**To:** Carlin, Jayne; Croxton, Dave; Henning, Alan; Wu, Jennifer; [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov); Solloway, Chris; Flahive, Katie; Rueda, Helen; Parry, Roberta; Melissa Rada - NOAA Affiliate; Sweeney, Stephen; Byrne, Jennifer; [jeff.dillen@noaa.gov](mailto:jeff.dillen@noaa.gov)

**Cc:** Psyk, Christine; Hall, Lynda; Joelle Gore - NOAA Federal

**Subject:**

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

# Ex. 5 - Deliberative

-Don

**From:** Carlin, Jayne

**Sent:** Tuesday, September 02, 2014 12:24 PM

**To:** Wayne, Don; Croxton, Dave; Henning, Alan; Wu, Jennifer; [allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov); Solloway, Chris; Flahive, Katie; Rueda, Helen; Parry, Roberta; Melissa Rada - NOAA Affiliate; Sweeney, Stephen; Byrne, Jennifer; ['jeff.dillen@noaa.gov'](mailto:jeff.dillen@noaa.gov)

**Cc:** Psyk, Christine; Hall, Lynda; Joelle Gore - NOAA Federal

**Subject:** Agenda for Sept 2 OR CZARA Tech/Legal Team Call (10 AM WA/OR or 1 PM DC), **Non-Responsive**

**Non-Responsive**

### OR CZARA Tech/Legal Team Meeting

September 2 at 10 AM WA/OR or 1 PM DC

**Non-Responsive**

### Agenda

Introductions & Updates

Follow up/Action Items from August 26 Call

Prep for Managers Meeting

- Forestry/Riparian Rationale (Alan)
- Forestry/landslides Rationale and update—questions answered and information needed in order to elevate (Alan)

### Ex. 5 - Deliberative

- Review of revised agenda for managers meetings (see below)

Action Items

**August 26<sup>th</sup> OR CZARA Action Items** (Draft Agenda for Mgrs Meeting & Upcoming Meetings)

### *Draft Agenda for September 4<sup>th</sup> meeting (90 minutes)*

- Introductions/New Directions/Agenda Review/Action Items from Aug 20<sup>th</sup> meeting (Jayne)
- Forestry/Riparian Rationale (Alan)
- Forestry/landslides Rationale and update/talking points/rationale—questions answered and information needed in order to elevate (Alan)

### Ex. 5 - Deliberative

- Action Items/Next Steps

### *Action Items*

- The Forestry/Pesticides team will look into notification requirements in neighboring states; what makes Oregon unique or different;

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**Ex. 5 - Deliberative**

whether Oregon Toxics standard is relevant to addressing this condition; and the exact wording of this condition from the 1988 findings, focusing on whether it directly references buffers (*it does*).

- All will review the Ag MM paper to better prepare for the Sept 4<sup>th</sup> call (*topic postponed until mid to late September*).
- Legal team will complete the review of the rationales for interim approval for OSDS and New Development MMs and provide comments to Don Waye by August 29.
- The managerial team will complete the reviews the rationales for interim approval for New Development MMs and OSDS and provide comments to Don Waye by August 29.
- Joelle/Allison will follow up with Jeff on the date that the legal team will complete the talking points for management and to help the technical team craft a response to comments regarding additional management measures.
- Allison will email the most current version of the response to comments document to the tech team (*done*).
- Forestry/landslides team will provide the following information to the managerial team in the form of talking points: comparison to how Washington addresses high risk landslides' potential impact to water quality in forested areas; EPA/NOAA expectations and suggestions on how Oregon can address this additional MM; whether we have the data to identify landslide prone areas and nearby receiving waters. *Will be discussed on Sept 4<sup>th</sup> call.*
- Alan will talk with Theresa on Allison's work on responses to general forestry comments.
- Tech team will update the attached table on status (including new column on "Mgr Talking Points").
- Tech and legal teams will review attached standard language on concerns raised on MMS on which EPA/NOAA did not request comment by September 2.

### Upcoming September Meetings

Sept 4	9/12	OR CZARA Mgrs
Sept 9	10/1	OR CZARA
Sept 10	12/3	OR CZARA Mgrs
Sept 16	10/1	OR CZARA
Sept 18	12/3	OR CZARA Mgrs
Sept 22	10/1	OR CZARA Mgrs
Sept 23	10/1	OR CZARA
Sept 29	10:30/1:30	OR CZARA Mgrs
Sept 30	10/1	OR CZARA

Regards,

Jayne

Jayne Carlin, Watersheds Unit  
 US EPA, Region 10  
 1200 6th Ave, Suite 900 (OWW-134)  
 Seattle, WA 98101-3140  
 (206) 553-8512, (206) 553-0165 (fax)  
[carlin.jayne@epa.gov](mailto:carlin.jayne@epa.gov)

<http://www.epa.gov/r10earth/tmdl.htm>

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Allison Castellan  
 Coastal Management Specialist  
 Office of Ocean and Coastal Resource Management N/ORM3  
 National Oceanic and Atmospheric Administration, SSMC4

Silver Spring, MD 20910

Phone: 301-563-1125

Fax: 301-713-4004

[allison.castellan@noaa.gov](mailto:allison.castellan@noaa.gov)

<http://coastalmanagement.noaa.gov>